

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Jennie Smallwood,)	No. CV 04-393-TUC-CKJ
Plaintiff,)	ORDER
vs.)	
Jo Anne B. Barnhart, Commissioner of)	
Social Security,)	
Defendant.)	
_____)	

Pending before the Court is Plaintiff's Motion for Summary Judgment pertaining to the denial of disability benefits by the Administrative Law Judge ("ALJ") in his case. Also pending before the Court is Defendant's Motion to Remand regarding the same denial of disability benefits.

United States Magistrate Judge Hector C. Estrada issued a Report and Recommendation on August 29, 2005. In that Report and Recommendation, Magistrate Judge Estrada recommended granting Plaintiff's Motion for Summary Judgment, denying Defendant's Motion to Remand, and remanding the case to the ALJ for an award of benefits.

The Report and Recommendation stated that any party could file written objections within ten days after being served with a copy of the Report and Recommendation. Copies of the Report and Recommendation were filed on August 29, 2005. The parties have not

1 filed any objections to the Report and Recommendation. As such, the Court will not consider
2 any objections or new evidence.

3 The Court has reviewed the entire record and concludes that Magistrate Judge
4 Estrada's recommendations are not clearly erroneous. *See* 28 U.S.C. § 636(b)(1); Fed. R.
5 Civ. P. 72; *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *Conley v.*
6 *Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

7 Accordingly, IT IS HEREBY ORDERED as follows:

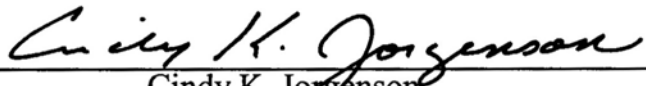
8 (1) United States Magistrate Estrada's Report and Recommendation (Doc. #22) is
9 **ACCEPTED AND ADOPTED.**

10 (2) Plaintiff's Motion for Summary Judgment (Doc. #9) is **GRANTED.**

11 (3) Defendant's Motion to Remand (Doc. #6) is **DENIED**, and this case is **REMANDED TO**
12 **THE ALJ FOR AN AWARD OF BENEFITS.**

13 (4) The **CLERK OF THE COURT SHALL ENTER JUDGMENT ACCORDINGLY**
14 **AND CLOSE THE FILE IN THIS MATTER.**

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16 DATED this 25th day of October, 2005.

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22 Cindy K. Jorgenson
23 United States District Judge
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